

RBS and RUS, USDA

§ 4290.3015

leveraged RBICs, all authorities and responsibilities assigned to the Secretary under this part shall be carried out by the Secretary. Thus, when applying subparts A through N of this part to Non-leveraged RBICs, all references to the Small Business Administration (SBA) or Administrator on behalf of USDA shall be read as the Secretary. All forms shall be submitted to USDA or its designee.

[77 FR 4885, Feb. 1, 2012]

§ 4290.3004 [Reserved]

§ 4290.3005 Qualifications for the Non-leveraged RBIC Program.

(a) *Business form.* In addition to complying with the applicable provisions of § 4290.100 not otherwise modified by this section, paragraphs (a)(1) through (a)(4) of this section apply.

(1) For RBICs applying for non-leveraged status, the types of investors eligible to invest in a RBIC must have been approved by the Secretary. Investors seeking approval must submit a request to the Secretary with sufficient documentation to support their request. The USDA will announce such approved categories and types of investors in a public notice published in the FEDERAL REGISTER from time to time. Subsequent notices that modify the types of investors eligible to invest in a RBIC will not be applied retroactively.

(2) In lieu of complying with § 4290.100(d)(1)(i), you must have a minimum duration of 10 years. After 10 years, the Partnership RBIC may be terminated by a vote of your partners.

(3) In lieu of complying with § 4290.100(d)(2), if you are a LLC RBIC, you must have a minimum duration of 10 years. After 10 years, the LLC RBIC may be terminated by a vote of your members.

(4) In lieu of complying with § 4290.100(d)(3), if you are a Corporate RBIC, you must have a duration of not less than 30 years unless earlier dissolved by the shareholders.

(b) *Approval of initial Management Expenses.* Section 4290.140 does not apply to Non-leveraged RBICs. However, the Secretary will provide a cap on these expenses in each FEDERAL REGISTER

notice soliciting applications for Non-leveraged RBICs.

(c) *Management and ownership diversity requirements.* A Non-leveraged RBIC is subject to the provisions of § 4290.150 unless it is exempted from these provisions by the Secretary. Exemptions will only be granted when the applicant establishes, to the satisfaction of the Secretary, that granting the exemption will not unduly impair the integrity and soundness of the Non-leveraged RBIC.

(d) *Special rules for Partnership RBICs and LLC RBICs.* Paragraph (c) of § 4290.160 does not apply to Non-leveraged RBICs.

§§ 4290.3006–4290.3009 [Reserved]

§ 4290.3010 Application and Approval Process for RBIC licensing without Leverage.

(a) The provisions of § 4290.300 notwithstanding, the Secretary will accept, at any time, applications for consideration as a Non-leveraged RBIC. The number of applications that the Agency will receive each year, and any fees and conditions, will be announced annually in a FEDERAL REGISTER notice.

(b) The provision for evaluating applicants on a competitive basis, as specified in § 4290.340(a), does not apply to this subpart.

(c) The provisions specified in § 4290.370(m) do not apply to this subpart.

[76 FR 80225, Dec. 23, 2011, as amended at 77 FR 4885, Feb. 1, 2012]

§§ 4290.3011–4290.3014 [Reserved]

§ 4290.3015 Evaluation and selection of Non-leveraged RBICs.

(a) *General.* Notwithstanding any other provision in this part, when selecting applications for non-leveraged status, the Secretary may select one or more applications, or none, for further consideration based on the evaluation criteria of this part.

(b) *Eligibility and completeness.* In addition to the requirements specified in § 4290.350, an Applicant under this subpart must complete a written application that includes information not otherwise exempted by the Secretary, in